

APPEAL NO. 92131
FILED MAY 15, 1992

On March 5, 1991, a contested case hearing was held in _____, Texas, (hearing officer) presiding as hearing officer. She determined that the appellant sustained no injury cognizable under the Texas Workers' Compensation Commission Act [TEX. REV. CIV. STAT. ANN., arts 8308-1.01 *et seq* (Vernon Supp 1992) (1989 Act)] in July of 1991, or at any other time, which was in furtherance of the business of (employer) and further, the appellant failed to timely report his alleged injury for which he did not have good cause. She also determined that the appellant does not suffer from a disability. Accordingly, benefits were denied. Appellant seeks review of all of these conclusions of the hearing officer and urges the great weight of the credible evidence is against the determinations of the hearing officer. He asks that the decision be reversed and benefits be awarded.

DECISION

Finding that the first of three audio tapes that recorded the contested case hearing, including testimony of witnesses, is blank, we reverse and remand.

Article 8308-6.42 of the 1989 Act requires the Appeals Panel to consider the "record developed at the contested case hearing." Also see Texas Workers' Compensation Commission Appeal No. 91017 (Docket No. FW-00020-91-CC-1) decided September 25, 1991. This panel cannot make a decision on the merits without a record, so we necessarily remand for a suitable reconstruction of that portion of the hearing that is represented by the blank tape.

The case is reversed and remanded for an expedited proceeding to effect a complete record of the contested case hearing and returned to us for further consideration pursuant to the request for review filed by the appellant.

Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

Joe Sebesta
Appeals Judge

Robert W. Potts
Appeals Judge